

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

WILLIAM MCGURGAN, aka
WILLIAM JONES,

Petitioner,

v. // CIVIL ACTION NO. 1:11CV147
(Judge Keeley)

WARDEN WILLIAM FOX,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On September 19, 2011, the pro se petitioner, inmate William McGurgan ("McGurgan"), filed a petition pursuant to 28 U.S.C. § 2241 (dkt. no. 1) challenging certain convictions he incurred in Virginia which were then used in Morgan County, West Virginia to convict him as a habitual offender. The Court referred this matter to United States Magistrate Judge John S. Kaul for initial screening and a report and recommendation in accordance with LR PL P 2.

Magistrate Judge Kaul issued an Opinion and Report and Recommendation ("R&R") on September 29, 2011, in which he recommended the petitioner's § 2241 petition be denied and dismissed with prejudice. (Dkt. No. 9). Specifically, Magistrate Judge Kaul determined that McGurgan's petition challenges his state court conviction and sentence, and as such his claims must be brought pursuant to 28 U.S.C. § 2254.

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McGurgan filed an objection to the R&R on October 11, 2011. (Dkt. No. 14). The objection consists of a single sentence which argues, in general terms, that his sentence is illegal. Notably, this conclusory objection does not direct the Court to any specific error in the R&R. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (noting that the court reviews only for clear error in the absence of specific objections); see also Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982) (de novo review not required when a party makes only "general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations."). Finding no clear error on the face record, the Court **OVERRULES** McGurgan's objection.

For the reasons discussed, the Court:

1. **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 9);
2. **DENIES** Johnson's § 2241 petition (dkt. no. 1); and
3. **ORDERS** that this case be **DISMISSED WITH PREJUDICE** and **STRICKEN** from the docket of this Court.

If the petitioner should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of

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the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: May 3, 2012.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE